

### § 203.493

with assignments, pledges or transfers pursuant to this section.

#### § 203.493 Declaration of trust.

A sale of a beneficial interest in a group of insured loans, where the interest to be acquired is related to all of the loans as an entirety, rather than an interest in a specific loan, shall be made only pursuant to a declaration of trust, which has been approved by the Commissioner prior to any such sale.

#### § 203.495 Transfers of partial interests.

A partial interest in an insured loan may be transferred under a participation agreement without obtaining the approval of the Commissioner, if the following conditions are met:

(a) *Principal mortgagee.* The insured loan shall be held by an approved lender which, for the purposes of this section, shall be referred to as the *principal lender*.

(b) *Interest of principal lender.* The principal lender shall retain and hold for its own account a financial interest in the insured loan.

(c) *Qualification for holding partial interest.* A partial interest in an insured loan shall be issued to and held only by:

(1) A lender approved by the Commissioner; or

(2) A corporation, trust or organization (including, but not limited to any pension fund, pension trust, or profit-sharing plan) which certifies to the principal lender that:

(i) It has assets of \$100,000 or more; and

(ii) It has lawful authority to acquire a partial interest in an insured loan.

(d) *Participation agreement provisions.* The participation agreement shall include provisions that:

(1) The principal lender shall retain title to the loan and remain the lender of record under the contract of loan insurance.

(2) The Commissioner shall have no obligation to recognize or deal with anyone other than the principal lender with respect to the rights, benefits, and obligations of the lender under the contract of insurance.

(3) The loan documents shall remain in the custody of the principal lender.

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(4) The responsibility for servicing the insured loans shall remain with the principal lender.

#### EXTENSION OF TIME

#### § 203.496 Actions to be taken by mortgagee or lender.

With respect to any action required by the mortgagee or lender within a period of time prescribed by this subpart the Commissioner may extend such period.

#### AMENDMENTS

#### § 203.499 Effect of amendments.

The regulations in this subpart may be amended by the Secretary at any time and from time to time, in whole or in part, but such amendment will not adversely affect the interests of a mortgagee under the contract of insurance on any mortgage or loan already insured, and will not adversely affect the interest of a mortgagee on any mortgage or loan to be insured for which either the Direct Endorsement or Lender Insurance mortgagee has approved the mortgagor and all terms and conditions of the mortgage or loan, or the Secretary has issued a firm commitment. In addition, such amendment will not adversely affect the eligibility of specific property if such property is covered by a conditional commitment issued by the Secretary, a certificate of reasonable value issued by the Secretary of Veterans Affairs, or an appraisal report approved by a Direct Endorsement or Lender Insurance underwriter.

[62 FR 30227, June 2, 1997]

### Subpart C—Servicing Responsibilities

SOURCE: 41 FR 49736, Nov. 10, 1976, unless otherwise noted.

#### GENERAL REQUIREMENTS

#### § 203.500 Mortgage servicing generally.

This subpart identifies servicing practices of lending institutions that HUD considers acceptable for mortgages insured by HUD. Failure to comply with this subpart shall not be a basis for denial of insurance benefits,